



GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

2006 REGULAR SESSION

SENATE BILL NO. 82

AS ENACTED

MONDAY, APRIL 10, 2006

RECEIVED AND FILED

DATE April 18, 2006
9:50 AM

TREY GRAYSON
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY R. Allen

AN ACT relating to wineries and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 243.155 is amended to read as follows:

(1) Any in-state or out-of-state small farm winery may apply for a small farm winery license. In addition to all other licensing requirements, an applicant for a small farm winery license shall submit with its application a copy of the small farm winery's federal basic permit and proof documenting its annual wine production. An out-of-state winery shall submit additional documentation evidencing its resident state. As part of the application process, an out-of-state winery shall publish its notice of intent, as required by KRS 243.360, in the Kentucky newspaper of highest circulation. The office shall promulgate administrative regulations establishing the form the documentation of proof of production shall take.

(2) A small farm winery license shall authorize the licensee to perform the following functions without having to obtain separate licenses, except that each small farm winery off-premises retail site shall be separately licensed:

(a) Manufacture wines and bottle wines produced by that small farm winery ~~in an amount not to exceed fifty thousand (50,000) gallons in one (1) year~~;

(b) Bottle wines produced by another small farm winery;

(c) Serve on the premises or at small farm winery off-premise retail sites complimentary samples of wine produced by it in amounts not to exceed six (6) ounces per patron per day, if the small farm winery or its off-premise retail site is located in wet territory;

~~(d)(e)}~~ Sell by the drink or by the package on premises, at small farm winery off-premise retail sites, and at fairs, festivals, and other similar types of events, wine produced on the premises of the small farm winery or produced by a licensed small farm winery, at retail to consumers if all sales sites are

located in wet territory;

~~(e)[(d)]~~ Sell and transport wine produced on the premises of the small farm winery to wholesale license holders and small farm wineries~~[to retail package or retail drink]~~ license holders~~[, if the wine has been offered for sale to wholesale license holders and the wine is sold at the wholesale price to the retail package or retail drink license holders];~~

~~(f)[(e)]~~ Consume on the premises wine produced by the small farm winery or a licensed small farm winery and purchased by the drink or by the package at the licensed premises, if the small farm winery is located in wet territory; and

~~(g)[(f)]~~ Ship to a customer wine produced by a small farm winery~~[or a farm winery]~~ if:

1. The wine is purchased by the customer in person at the small farm winery;
2. The wine is shipped by licensed common carrier; and
3. The amount of wine shipped is limited to two (2) cases per customer per visit.

~~[(2)] In accordance with administrative regulations promulgated by the board, the holder of a small winery license or farm winery license, upon affidavit filed with the board that grapes, grape juice, other fruits, other fruit juices, or honey produced in Kentucky are not obtainable, may apply for a permit to import these products. The burden of proof shall be upon the applicant to show that the grapes, grape juice, other fruits, other fruit juices, or honey are not available from any other source within the Commonwealth of Kentucky.]~~

(3) If a licensed small farm winery is located in a dry territory, KRS 242.230 to 242.430 shall apply, unless a local option election is held in accordance with the provisions of this subsection. A limited sale precinct election may be held in a precinct containing a licensed small farm winery or a proposed small farm winery

1 located in a dry territory. The election shall be held in the same manner as
 2 prescribed by KRS 242.010 to 242.040 and 242.060 to 242.120. If the precinct
 3 contains a licensed small farm winery, the proposition to be voted on shall state,
 4 "Are you in favor of the sale of wine at the (name of the licensed small farm winery
 5 or wineries)?" If the precinct contains a proposed small farm winery or wineries,
 6 the proposition voted on shall state, "Are you in favor of the sale of wine at the
 7 (name of the proposed small farm winery or wineries)?" If the proposition is
 8 approved, a licensed small farm winery within the precinct may sell wine in
 9 accordance with subsection (2)[(1)] of this section.

10 (4) Other provisions of this chapter and KRS Chapter 244 notwithstanding, a small
 11 farm winery license holder may also hold a restaurant wine license and a retail malt
 12 beverage license, provided the issuance of these licenses is in connection with the
 13 establishment and operation of a restaurant, hotel, inn, bed and breakfast,
 14 conference center, or any similar business enterprise the purpose of which is to
 15 promote viticulture, enology, and tourism. The retail malt beverage license issued
 16 under this subsection shall limit the licensee to the sale of malt beverages for
 17 consumption on the premises only.

18 (5) This section shall not exempt the holder of a small farm winery license from the
 19 provisions of KRS Chapters 241, 242, 243, and 244, nor from the administrative
 20 regulations of the board, nor from regulation by the board at all premises licensed
 21 by the small farm winery, except as expressly stated in this section.

22 (6) Nothing contained in this section shall exempt a licensed out-of-state winery
 23 from obeying the laws of its resident state.

24 (7) Any person previously licensed as a small or farm winery under this chapter prior
 25 to the effective date of this Act shall hereby be authorized to conduct business as
 26 a small farm winery licensee, until such time as the term of his or her small or
 27 farm winery license expires. Upon the expiration of the term remaining on his or

her small or farm winery license, a licensee who is in good standing shall be issued a small farm winery license as part of the renewal process after he or she submits to the office the winery's federal basic permit and proof of its annual wine production.

Section 2. KRS 244.165 is amended to read as follows:

- (1) Except as provided in subsection (2) of this section, it shall be unlawful for any person in the business of selling alcoholic beverages in another state or country to ship or cause to be shipped any alcoholic beverage directly to any Kentucky resident who does not hold a valid wholesaler or distributor license issued by the Commonwealth of Kentucky.

- (2) A small farm winery located in another state may ship wine to a customer in Kentucky if:

(a) The wine is purchased by the customer in person at the winery;

(b) The wine is shipped by licensed common carrier; and

(c) The amount of wine shipped is limited to two (2) cases per customer per visit.

- (3) Any person who violates subsection (1) of this section shall, for the first offense, be mailed a certified letter by the office ordering that person to cease and desist any shipments of alcoholic beverages to Kentucky residents, and for the second and each subsequent offense, be guilty of a Class D felony.

Section 3. KRS 260.166 is amended to read as follows:

- (1) The Kentucky Grape and Wine Council, created in KRS 260.165 to promote and facilitate the development of a grape, grape products, and wine industry, may:

- (a) Conduct and contract with others to conduct research on grapes, grape products, and wine in Kentucky and elsewhere for use in Kentucky, including but not limited to:

1. Methods of marketing, market development, and distribution;

- 1 2. Methods of storage, refrigeration, processing, and transportation;
- 2 3. Methods of production and product development;
- 3 4. Methods of agronomic, enological, and viticultural practices to improve
- 4 these practices in Kentucky; and
- 5 5. Economic benefits and impact from the industry;
- 6 (b) Publish and provide and contract with others to publish and provide
- 7 wholesalers and retailers in the Kentucky grape, grape products, and wine
- 8 industry with information on proper methods of handling and selling grapes,
- 9 grape products, and wine;
- 10 (c) Publish and provide and contract with others to publish and provide producers
- 11 of Kentucky grapes, grape products, and wine, as well as the general public,
- 12 with information relating to Kentucky grapes, grape products, and wine; and
- 13 (d) Design and implement or contract with others to design and implement
- 14 activities relating to Kentucky grapes, grape products, and wine, including but
- 15 not limited to:
- 16 1. Market surveys and analyses;
- 17 2. Industry promotion programs;
- 18 3. Market maintenance and expansion plans;
- 19 4. Education programs;
- 20 5. Public relations programs;
- 21 6. Economic impact analyses; and
- 22 7. Other analysis or research relating to the promotion and sale of
- 23 Kentucky grapes, grape products, and wine.
- 24 (2) The Kentucky Grape and Wine Council, to the extent that funds are available, shall:
- 25 (a) Promote the sale of grapes, grape products, and wine for the purpose of
- 26 maintaining and expanding present markets and creating new markets for
- 27 Kentucky grapes, grape products, and wine for the maximum economic

1 impact on the agricultural economy of Kentucky;

2 (b) Inform the public, producers, and vendors about Kentucky grapes, grape
3 products, and wine, including uses and benefits of these products;

4 (c) Advise the Commissioner to:

5 1. Expend moneys from the Kentucky Grape and Wine Council fund
6 created in KRS 260.168 to carry out the duties and recommendations of
7 the council; and

8 2. Hire staff to carry out the duties and recommendations of the council;
9 and

10 3. Promulgate administrative regulations to carry out the duties and
11 recommendations of the council;

12 (d) Coordinate with the Kentucky Department of Agriculture and other state
13 agencies in carrying out these duties;~~and~~

14 (e) Report annually to the Governor and the General Assembly on the activities of
15 the Kentucky Grape and Wine Council; and

16 (f) Report by November 1 of each year to the Interim Joint Committee on
17 Licensing and Occupations of the Kentucky General Assembly and the
18 Agricultural Development Board on the coordination between Kentucky
19 wineries and Kentucky wholesalers to promote the availability of Kentucky
20 wine to retailers.

21 SECTION 4. A NEW SECTION OF KRS CHAPTER 260 IS CREATED TO
22 READ AS FOLLOWS:

23 (1) The Kentucky small farm wineries support fund is created as a separate revolving
24 fund. The support fund shall consist of amounts transferred to the fund pursuant
25 to the provisions of subsection (2) of this section and any other proceeds from
26 grants, contributions, appropriations, or other moneys made available for the
27 purposes of the fund. Fund amounts not expended at the close of the fiscal year

1 shall not lapse but shall be carried forward into the next fiscal year. Any interest
2 earnings of the fund shall become a part of the fund and shall not lapse.

3 (2) A total of four hundred thousand dollars (\$400,000) shall be deposited in the
4 Kentucky small farm wineries support fund each fiscal year from the general
5 fund. The funds shall be used by the Kentucky Grape and Wine Council as
6 follows:

7 (a) Two hundred thousand dollars (\$200,000) of these funds shall be used for
8 the promotion, advertising, and marketing in Kentucky of wine produced by
9 small farm wineries located in Kentucky. The Grape and Wine Council
10 shall collaborate with the Kentucky Department of Agriculture and the
11 Kentucky Department of Tourism to develop a marketing plan that shall
12 include brand development, direct mail and e-marketing, Web site
13 development, collateral brochures and maps, advertising, familiarization
14 trips, a retail program, and any other topics that the marketing plan
15 developers deem appropriate or that may be established through the
16 promulgation of administrative regulations;

17 (b) One hundred thousand dollars (\$100,000) of these funds shall be used by
18 the Grape and Wine Council, in collaboration with the Kentucky
19 Department of Agriculture and the Kentucky Department of Tourism, to
20 establish a local marketing cost-share program. For the purposes of this
21 section, "local marketing cost-share program" means a mechanism to
22 provide Kentucky small farm wineries with access to matching funds
23 reimbursements for projects that promote and market their products.
24 Standards for the application for, and receipt of, matching funds
25 reimbursements authorized in this section shall be established through the
26 promulgation of administrative regulations;

27 (c) Twenty-five thousand dollars (\$25,000) of these funds shall be used for

funding the administrative costs of the Kentucky Grape and Wine Council.
The costs shall include but not be limited to reimbursement for the council's
appointed members' travel expenses while attending meetings of the
council;

(d) Seventy-five thousand dollars (\$75,000) shall be used for the payment of
fees to licensed wholesalers who apply to the Kentucky Grape and Wine
Council to participate in a wine distribution program established by the
Kentucky Grape and Wine Council. A licensed wholesaler shall apply and
shall be eligible for consideration for the program. The licensed wholesaler
shall agree to distribute the wine produced by small farm wineries licensed
under Section 1 of this Act and shall agree to sell the wine to retailers for
the same price the wholesaler paid for the wine; and

(e) The funds allocated to each purpose under paragraphs (a) to (d) of this
subsection shall be used exclusively for the purpose designated. Use of the
funds designated for each purpose shall be strictly adhered to, and the funds
shall not be used to support any other purpose. If, at the end of any fiscal
year funds designated for one (1) of the purposes are unused, the unused
funds shall not lapse and shall be carried forth to the succeeding year for
the original purpose designated.

(3) The Kentucky Grape and Wine Council shall advise the Commissioner of the
Department of Agriculture regarding promulgation of administrative regulations
necessary to carry out the provisions and purposes of subsection (2) of this
section. The Department of Agriculture shall collaborate with the Department of
Tourism and the Kentucky Grape and Wine Council in developing any
administrative regulations promulgated under the authority of this section.

Section 5. KRS 260.165 is amended to read as follows:

(1) The Kentucky Grape and Wine Council is hereby created within the Department of

1 Agriculture. The purpose of the council shall be to promote and facilitate the
2 development of a Kentucky-based grape industry in the Commonwealth of
3 Kentucky.

4 (2) The council shall be composed of the Commissioner of Agriculture, or his designee,
5 and nine (9) members appointed by the Governor. Of the nine (9) gubernatorial
6 appointments, the Governor shall appoint one (1) from a list of three (3) candidates
7 submitted by the director of the University of Kentucky Agriculture Experiment
8 Station, one (1) from a list of three (3) candidates submitted by the secretary of the
9 Commerce Cabinet, three (3) winery operators from a list of six (6) candidates
10 submitted by the Commissioner of Agriculture,~~[and]~~ two (2) grape producers from
11 a list of four (4)~~[ten (10)]~~ candidates submitted by the Commissioner of
12 Agriculture, and two (2) citizens at large~~[Kentucky Vineyard Society and the~~
13 ~~Kentucky Grape and Wine Council]~~.

14 (3) Of the members appointed after January 1, 2007, three (3) members shall serve a
15 term of one (1) year, two (2) shall serve a term of two (2) years, two (2) shall serve
16 a term of three (3) years, and two (2) shall serve a term of four (4) years, as the
17 Governor designates. Thereafter,~~[The]~~ appointed members shall serve~~[for]~~ terms
18 of four (4) years and until their successors are appointed and qualify. A vacancy in
19 an unexpired term shall be filled for the unexpired portion of the term in the
20 same manner as the original appointment to that term.

21 (4) The council shall select a chairman and shall meet at least once every three (3)
22 months at the times and places the chairman~~[that he]~~ designates. Six (6)~~[Five (5)]~~
23 members present at any meeting shall constitute a quorum. Upon the written request
24 of any five (5) members, the chairman shall call a meeting of the council at the time
25 and place requested.

26 (5) The council may enact bylaws concerning the conduct of the council's business
27 and other administrative procedures as the council deems necessary.

1 ~~(6)~~~~(4)~~ Members shall receive no compensation but shall be reimbursed, payable from
 2 the Kentucky Grape and Wine Council fund, for any actual travel expense incurred
 3 while attending meetings of the council.

4 Section 6. KRS 241.010 is amended to read as follows:

5 As used in this chapter and in KRS Chapters 242 and 243, unless the context requires
 6 otherwise:

- 7 (1) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl or spirit of wine, from
 8 whatever source or by whatever process it is produced.
- 9 (2) "Alcoholic beverage" means every liquid or solid, whether patented or not,
 10 containing alcohol in an amount in excess of more than one percent (1%) of alcohol
 11 by volume, which is fit for beverage purposes. It includes every spurious or
 12 imitation liquor sold as, or under any name commonly used for, alcoholic
 13 beverages, whether containing any alcohol or not. It does not include the following
 14 products:
 - 15 (a) Medicinal preparations manufactured in accordance with formulas prescribed
 16 by the United States Pharmacopoeia, National Formulary, or the American
 17 Institute of Homeopathy;
 - 18 (b) Patented, patent, and proprietary medicines;
 - 19 (c) Toilet, medicinal, and antiseptic preparations and solutions;
 - 20 (d) Flavoring extracts and syrups;
 - 21 (e) Denatured alcohol or denatured rum;
 - 22 (f) Vinegar and preserved sweet cider;
 - 23 (g) Wine for sacramental purposes;
 - 24 (h) Alcohol unfit for beverage purposes that is to be sold for legitimate external
 25 use; and
 - 26 (i) Malt beverages, containing not more than three and two-tenths percent (3.2%)
 27 of alcohol by weight, in territory that has voted to allow the sale thereof.

- 1 (3) "Board" means the State Alcoholic Beverage Control Board created by KRS
2 241.030.
- 3 (4) "Bottle" means any container which is used for holding alcoholic beverages for the
4 use and sale of alcoholic beverages at retail.
- 5 (5) "Brewer" means any person who manufactures malt beverages or owns, occupies,
6 carries on, works, or conducts any brewery, either by himself or by his agent.
- 7 (6) "Brewery" means any place or premises where malt beverages are manufactured for
8 sale, and includes all offices, granaries, mash rooms, cooling rooms, vaults, yards,
9 and storerooms connected with the premises; or where any part of the process of the
10 manufacture of malt beverages is carried on; or where any apparatus connected with
11 manufacture is kept or used; or where any of the products of brewing or
12 fermentation are stored or kept.
- 13 (7) "Building containing licensed premises" means the licensed premises themselves
14 and includes the land, tract of land, or parking lot in which the premises are
15 contained, and any part of any building connected by direct access or by an entrance
16 which is under the ownership or control of the licensee by lease holdings or
17 ownership.
- 18 (8) "Caterer" means a corporation, partnership, or individual that operates the business
19 of a food service professional by preparing food in a licensed and inspected
20 commissary, transporting the food and alcoholic beverages to the caterer's
21 designated and inspected banquet hall or to a location selected by the customer, and
22 serving the food and alcoholic beverages to the customer's guests.
- 23 (9) "Charitable organization" means a nonprofit entity recognized as exempt from
24 federal taxation under section 501(c) of the Internal Revenue Code (26 U.S.C. sec.
25 501(c)) or any organization having been established and continuously operating
26 within the Commonwealth of Kentucky for charitable purposes for three (3) years
27 and which expends at least sixty percent (60%) of its gross revenue exclusively for

- 1 religious, educational, literary, civic, fraternal, or patriotic purposes.
- 2 (10) "Cider" means any fermented fruit-based beverage containing more than one-tenth
3 of one percent (0.1%) alcohol by volume and includes hard cider and perry cider.
- 4 (11) "City administrator" means city alcoholic beverage control administrator.
- 5 (12) "Commissioner~~[Executive director]~~" means the commissioner of the Kentucky
6 Department of Revenue~~[executive director of alcoholic beverage control]~~.
- 7 (13) "Convention center" means any facility which, in its usual and customary business,
8 provides seating for a minimum of one thousand (1,000) people and offers
9 convention facilities and related services for seminars, training and educational
10 purposes, trade association meetings, conventions, or civic and community events
11 or for plays, theatrical productions, or cultural exhibitions.
- 12 (14) "Convicted" and "conviction" means a finding of guilt resulting from a plea of
13 guilty, the decision of a court, or the finding of a jury, irrespective of a
14 pronouncement of judgment or the suspension of the judgment.
- 15 (15) "County administrator" means county alcoholic beverage control administrator.
- 16 (16)~~["Office" means the Office of Alcoholic Beverage Control.~~
- 17 (17)~~["Distilled spirits" or "spirits" means any product capable of being consumed by a~~
18 human being which contains alcohol in excess of the amount permitted by KRS
19 Chapter 242 obtained by distilling, mixed with water or other substances in
20 solution, except wine, hard cider, and malt beverages.
- 21 (17)~~[(18)]~~ "Distiller" means any person who is engaged in the business of manufacturing
22 distilled spirits at any distillery in the state and is registered in the Office of the
23 Collector of Internal Revenue for the United States at Louisville, Kentucky.
- 24 (18)~~[(19)]~~ "Distillery" means any place or premises where distilled spirits are
25 manufactured for sale, and which are registered in the office of any collector of
26 internal revenue for the United States. It includes any United States government
27 bonded warehouse.

1 ~~(19)~~~~(20)~~ "Distributor" means any person who distributes malt beverages for the
2 purpose of being sold at retail.

3 ~~(20)~~~~(21)~~ "Dry territory" means a county, city, district, or precinct in which a majority of
4 voters have voted in favor of prohibition.

5 ~~(21)~~~~(22)~~ ~~"Farm winery" means a winery located on a Kentucky farm with a producing~~
6 ~~vineyard, orchard, or similar growing area, manufacturing and bottling wines in an~~
7 ~~amount not to exceed twenty five thousand (25,000) gallons per year.~~

8 ~~(23)~~ "Election" means:

9 (a) An election held for the purpose of taking the sense of the people as to the
10 application or discontinuance of alcoholic beverage sales under KRS Chapter
11 242; or

12 (b) Any other election not pertaining to alcohol.

13 ~~(22)~~ "Executive director" means the executive director of the Office of Alcoholic
14 ~~Beverage Control.~~

15 ~~(23)~~~~(24)~~ "Field representative" means any employee or agent of the office who is
16 regularly employed and whose primary function is to travel from place to place for
17 the purpose of visiting taxpayers, and any employee or agent of the office who is
18 assigned, temporarily or permanently, by the executive director to duty outside the
19 main office of the office at Frankfort, in connection with the administration of
20 alcoholic beverage statutes.

21 ~~(24)~~~~(25)~~ "License" means any license issued pursuant to KRS 243.020 to 243.670.

22 ~~(25)~~~~(26)~~ "Licensee" means any person to whom a license has been issued, pursuant to
23 KRS 243.020 to 243.670.

24 ~~(26)~~~~(27)~~ "Limited restaurant" means a facility where the usual and customary business
25 is the serving of meals to consumers, which has a bona fide kitchen facility, which
26 receives at least seventy percent (70%) of its gross income from the sale of food,
27 which maintains a minimum seating capacity of one hundred (100) persons for

1 dining, and which is located in a territory where prohibition is no longer in effect
2 under KRS 242.185(6).

3 ~~(27)~~~~(28)~~ "Malt beverage" means any fermented undistilled alcoholic beverage of any
4 name or description, manufactured from malt wholly or in part, or from any
5 substitute for malt, and having an alcoholic content greater than that permitted
6 under subsection (2)(i) of this section.

7 ~~(28)~~~~(29)~~ "Manufacture" means distill, rectify, brew, bottle, and operate a winery.

8 ~~(29)~~~~(30)~~ "Manufacturer" means a vintner, distiller, rectifier, or brewer, and any other
9 person engaged in the production or bottling of alcoholic beverages.

10 ~~(30)~~~~(31)~~ "Minor" means any person who is not twenty-one (21) years of age or older.

11 **(31) "Office" means the Office of Alcoholic Beverage Control.**

12 (32) "Premises" means the land and building in and upon which any business regulated
13 by alcoholic beverage statutes is operated or carried on. "Premises" shall not include
14 as a single unit two (2) or more separate businesses of one (1) owner on the same
15 lot or tract of land, in the same or in different buildings if physical and permanent
16 separation of the premises is maintained, excluding employee access by keyed entry
17 and emergency exits equipped with crash bars, and each has a separate public
18 entrance accessible directly from the sidewalk or parking lot. Any licensee holding
19 an alcoholic beverage license on July 15, 1998 shall not, by reason of this
20 subsection, be ineligible to continue to hold his or her license or obtain a renewal,
21 of the license.

22 (33) "Prohibition" means the application of KRS 242.190 to 242.430 to a territory.

23 (34) "Rectifier" means any person who rectifies, purifies, or refines distilled spirits or
24 wine by any process other than as provided for on distillery premises, and every
25 person who, without rectifying, purifying, or refining distilled spirits by mixing
26 alcoholic beverages with any materials, manufactures any imitations of or
27 compounds liquors for sale under the name of whiskey, brandy, gin, rum, wine,

1 spirits, cordials, bitters, or any other name.

2 (35) "Repackaging" means the placing of alcoholic beverages in any retail container
3 irrespective of the material from which the container is made.

4 (36) "Restaurant" means a facility where the usual and customary business is the serving
5 of meals to consumers, that has a bona fide kitchen facility, and that receives at least
6 fifty percent (50%) of its gross receipts from the sale of food.

7 (37) "Retail container" means any bottle, can, barrel, or other container which, without a
8 separable intermediate container, holds alcoholic beverages and is suitable and
9 destined for sale to a retail outlet, whether it is suitable for delivery to the consumer
10 or not.

11 (38) "Retail outlet" means retailer, hotel, motel, restaurant, railroad dining car, club, and
12 any facility where alcoholic beverages are sold directly to the consumers.

13 (39) "Retail sale" means any sale where delivery is made in Kentucky to any consumers.

14 (40) "Retailer" means any person who sells at retail any alcoholic beverage for the sale
15 of which a license is required.

16 (41) "Sale" means any transfer, exchange, or barter for consideration, and includes all
17 sales made by any person, whether principal, proprietor, agent, servant, or
18 employee, of any alcoholic beverage.

19 ~~(42) "Commissioner" means the commissioner of the Kentucky Department of Revenue.~~

20 ~~(43)~~ "Service bar" means a bar, counter, shelving, or similar structure used for storing or
21 stocking supplies of alcoholic beverages that is a workstation where employees
22 prepare alcoholic beverage drinks to be delivered to customers away from the
23 service bar. A service bar shall be located in an area where the general public,
24 guests, or patrons are prohibited.

25 ~~(43)~~~~(44)~~ "Sell" includes solicit or receive an order for, keep or expose for sale, keep
26 with intent to sell, and the delivery of any alcoholic beverage.

27 ~~(44)~~~~(45)~~ "Small farm winery" means a winery producing wines ~~from grapes, other~~

1 ~~fruit, or honey produced in Kentucky, unless exempt under KRS 243.155(2)],~~ in an
 2 amount not to exceed fifty thousand (50,000) gallons in a calendar~~one (1)~~ year.

3 ~~(45)~~~~((46))~~ "Souvenir package" means a special package of Kentucky straight bourbon
 4 whiskey available for retail sale at a licensed Kentucky distillery where the whiskey
 5 was produced or bottled that is available from a licensed retailer.

6 ~~(46)~~~~((47))~~ "State director" means the director of the Division of Distilled Spirits or the
 7 director of the Division of Malt Beverages, or both, as the context requires.

8 ~~(47)~~~~((48))~~ "Supplemental bar" means a bar, counter, shelving, or similar structure used
 9 for serving and selling distilled spirits or wine by the drink for consumption on the
 10 licensed premises to guests and patrons from additional locations other than the
 11 main bar. A supplemental bar shall be continuously constructed and accessible to
 12 patrons for distilled spirits or wine sales or service without physical separation by
 13 walls, doors, or similar structures.

14 ~~(48)~~~~((49))~~ "Vehicle" means any device or animal used to carry, convey, transport, or
 15 otherwise move alcoholic beverages or any products, equipment, or appurtenances
 16 used to manufacture, bottle, or sell these beverages.

17 ~~(49)~~~~((50))~~ "Vintner" means any person who owns, occupies, carries on, works, conducts,
 18 or operates any winery, either by himself or by his agent, except persons who
 19 manufacture wine for sacramental purposes exclusively.

20 ~~(50)~~~~((51))~~ "Warehouse" means any place in which alcoholic beverages are housed or
 21 stored.

22 ~~(51)~~~~((52))~~ "Wholesale sale" means a sale to any person for the purpose of resale.

23 ~~(52)~~~~((53))~~ "Wholesaler" means any person who distributes alcoholic beverages for the
 24 purpose of being sold at retail, but it shall not include a subsidiary of a manufacturer
 25 or cooperative of a retail outlet.

26 ~~(53)~~~~((54))~~ "Wine" means the product of the normal alcoholic fermentation of the juices
 27 of fruits, with the usual processes of manufacture and normal additions, and

includes champagne and sparkling and fortified wine of an alcoholic content not to exceed twenty-four percent (24%) by volume. It includes cider, hard cider, and perry cider and also includes preparations or mixtures vended in retail containers if these preparations or mixtures contain not more than fifteen percent (15%) of alcohol by volume. It includes ciders, perry, or sake having an alcohol content greater than that permitted under subsection (2)(i) of this section.

~~(54) [(55)]~~ "Winery" means any place or premises in which wine is manufactured from any fruit, or brandies are distilled as a by-product of wine or other fruit, or cordials are compounded.~~[It includes a winery for the manufacture of wine in any state or county other than Kentucky, if the out of state winery has and maintains a branch factory, office, or storeroom within this state and receives wine within this state consigned to a United States government bonded winery, warehouse, or storeroom located within this state.]~~

Section 7. KRS 243.030 is amended to read as follows:

The following kinds of distilled spirits and wine licenses may be issued by the director of the Division of Distilled Spirits, the fees for which shall be:

- (1) Distiller's license, per annum \$2,500.00
- (2) Rectifier's license, per annum \$2,500.00
- (3) Blender's license, per annum \$2,500.00
- (4) Vintner's license, per annum \$1,000.00
- (5) Small *farm* winery license, per annum \$100.00
 - (a) Small *farm* winery off-premises retail license, per annum \$25.00
- (6) Wholesaler's license, per annum \$2,000.00
- (7) Retail package license, per annum:
 - (a) In counties containing cities of the first class or a consolidated local government \$800.00
 - (b) In counties containing cities of the second class \$700.00

- 1 (c) In counties containing cities of the third class \$600.00
- 2 (d) In counties containing cities of the fourth class \$500.00
- 3 (e) In all other counties \$400.00
- 4 (8) Retail drink license, motel drink license, restaurant drink license, or supplemental
- 5 bar license, per annum:
- 6 (a) In counties containing cities of the first class or a consolidated local
- 7 government \$1,000.00
- 8 (b) In counties containing cities of the second class \$700.00
- 9 (c) In counties containing cities of the third class \$600.00
- 10 (d) In counties containing cities of the fourth class \$500.00
- 11 (e) The fee for each of the first five (5) supplemental bar licenses shall be the
- 12 same as the fee for the drink license. There shall be no charge for each
- 13 supplemental license issued in excess of five (5) to the same licensee at the
- 14 same premises.
- 15 (9) Transporter's license, per annum \$100.00
- 16 (10) Dining car license, per annum \$100.00
- 17 (11) Special nonbeverage alcohol vendor's license, per annum \$50.00
- 18 (12) Special industrial alcohol license, per annum \$50.00
- 19 (13) Special nonindustrial alcohol license, per annum \$50.00
- 20 (14) Special agent's or solicitor's license, per annum \$25.00
- 21 (15) Special storage or warehouse license and bottling house storage license,
- 22 per annum \$500.00
- 23 (16) Special temporary liquor license, per event \$100.00
- 24 (17) Special private club license, per annum \$300.00
- 25 The fee for each special private club license shall be the fee set out in this subsection;
- 26 however, there shall be no charge for each special private club license issued in excess of
- 27 six (6) that is issued to the same licensee at the same premises.

| | | | |
|----|------|---|---------------------|
| 1 | (18) | Special Sunday retail drink license, per annum | \$500.00 |
| 2 | (19) | Nonresident special agent or solicitor's license, per annum | \$100.00 |
| 3 | (20) | Transport permit, nonresident license, per annum | \$100.00 |
| 4 | (21) | Through transporter's license, per annum | \$100.00 |
| 5 | (22) | Freight forwarder's license, per annum | \$100.00 |
| 6 | (23) | Restaurant wine license, per annum..... | \$500.00 |
| 7 | (24) | Farm winery license, per annum | \$100.00 |
| 8 | (a) | Farm winery, off premises retail outlet license, per annum | \$25.00 |
| 9 | (25) | Special temporary wine license, per event | \$50.00 |
| 10 | (25) | (26) Caterer's license, per annum | \$800.00 |
| 11 | (26) | (27) Souvenir retail liquor license, per annum | \$500.00 |
| 12 | (27) | (28) Special temporary distilled spirits and wine | |
| 13 | | auction license, per event | \$100.00 |
| 14 | (28) | (29) Airport drink license, per annum | \$1,000.00 |
| 15 | (29) | (30) Convention center or convention hotel complex | |
| 16 | | license, per annum | \$5,000.00 |
| 17 | (30) | (31) Extended hours supplemental license, per annum | \$2,000.00 |
| 18 | (31) | (32) Horse race track license, per annum | \$2,000.00 |
| 19 | (32) | (33) Automobile race track license, per annum | \$2,000.00 |
| 20 | (33) | (34) Air or rail system license, per annum | \$2,000.00 |
| 21 | (34) | (35) Riverboat license, per annum | \$1,000.00 |
| 22 | (35) | (36) Bottling house license, per annum | \$1,000.00 |
| 23 | (36) | (37) Hotel in-room license, per annum | \$200.00 |
| 24 | (37) | (38) Bonded warehouse license, per annum | \$1,000.00 |
| 25 | (38) | (39) Air transporter liquor license, per annum | \$500.00 |
| 26 | (39) | (40) Sampling license, per annum | \$100.00 |
| 27 | (40) | (41) Replacement or duplicate license | \$25.00 |

1 ~~(41)~~~~[(42)]~~ Entertainment destination license, per annum \$7,500.00

2 ~~(42)~~~~[(43)]~~ (a) Limited restaurant license or limited golf course license, per annum

3 (includes distilled spirits, wine, and malt beverages), new applicants:

4 1. In counties containing cities of the first class or a consolidated local
5 government \$1,200.00

6 2. In counties containing cities of the second class \$900.00

7 3. In counties containing cities of the third class \$800.00

8 4. In counties containing cities of the fourth, fifth,
9 or sixth classes \$700.00

10 (b) Renewals for limited restaurant licenses or limited golf course licenses shall
11 be \$50.00 less than the applicable licensing fee for new applicants.

12 ~~(43)~~ *Small farm winery wholesaler's license, per annum* *\$100.00*

13 (44) Other special licenses the board finds necessary for the proper regulation and
14 control of the traffic in distilled spirits and wine and provides for by administrative
15 regulation. In fixing the amount of license taxes that are required to be fixed by the
16 board, it shall have regard for the value of the privilege granted.

17 A nonrefundable application fee of fifty dollars (\$50) shall be charged to process each
18 new application under this section, except for subsections (5), (9), (11), (12), (13), (14),
19 (16), (19), (20), (21), (22), (24), ~~(27)~~, ~~(39)~~[(25), (28), (40)], and ~~(40)~~[(41)]. The
20 application fee shall be applied to the licensing fee if the license is issued; otherwise it
21 shall be retained by the office.

22 Section 8. KRS 243.037 is amended to read as follows:

23 (1) A supplemental bar license shall authorize the licensee to sell or serve distilled
24 spirits or wine by the drink at retail for consumption on the licensed premises from
25 an additional location other than the main bar of an existing retail drink licensed
26 premises. A supplemental bar license is a nonquota license and shall not be
27 transferable to other premises.

- 1 (2) A supplemental bar license shall not be issued unless:
- 2 (a) The licensee applies to the state distilled spirits director and meets all
- 3 requirements for obtaining a supplemental bar license; and
- 4 (b) The licensee pays the applicable license fee prescribed in KRS 243.030(8),
- 5 (17), (23), ~~(28)~~~~[(29)]~~, ~~(34)~~~~[(35)]~~, or ~~(42)~~~~[(43)]~~.

- 6 (3) A licensee authorized to sell and serve malt beverages may sell and serve malt
- 7 beverages at any location on the licensed premises without obtaining a supplemental
- 8 bar license.

9 Section 9. KRS 243.110 is amended to read as follows:

- 10 (1) Except as provided in subsection (2) of this section, each kind of license listed in
- 11 KRS 243.030 shall be incompatible~~[inconsistent]~~ with every other kind listed in
- 12 that section and no person or entity holding a license of any of those kinds shall
- 13 apply for or hold a license of another kind listed in KRS 243.030.
- 14 (2) The holder of a retail package license may also hold either a retail drink license or a
- 15 special nonindustrial alcohol license. The holder of a transporter's license may also
- 16 hold a special storage or warehouse license. The holder of a wholesaler's license
- 17 may also hold a special nonbeverage alcohol vendor's license. The holder of a
- 18 distiller's license may also hold a rectifier's license, a special industrial alcohol
- 19 license or a vintner's license, and a souvenir retail liquor license.~~[The holder of a~~
- 20 ~~farm winery and a small winery license may exercise all functions of such license as~~
- 21 ~~authorized by KRS 243.155 and 243.156.]~~ A commercial airline system or charter
- 22 flight system retail license, a commercial airline system or charter flight system
- 23 transporter's license, and a retail drink license if held by a commercial airline or
- 24 charter flight system may be held by the same person or corporation.
- 25 (3) Any person may hold two (2) or more licenses of the same kind.
- 26 (4) A person or entity~~[An applicant]~~ shall not evade the prohibition against applying
- 27 for or holding licenses of two (2) kinds by applying for a second license through or

1 under the name~~[cloak]~~ of a different person or~~[separate corporate]~~ entity. The state
 2 director shall~~[may]~~ examine~~[—into]~~ the ownership and management of
 3 applicants~~[corporations which apply for or hold licenses]~~, and shall deny the
 4 application for a license if the applicant is~~[to any party]~~ substantially interested in a
 5 person or entity that holds an incompatible license.

6 Section 10. KRS 243.730 is amended to read as follows:

7 (1) (a) Wholesalers of distilled spirits and wine shall pay and report the tax levied by
 8 KRS 243.720(1) and (2) on or before the twentieth day of the calendar month
 9 next succeeding the month in which possession or title of the distilled spirits
 10 and wine is transferred from the wholesaler to retailers or consumers in this
 11 state, in accordance with rules and regulations of the Department of Revenue
 12 designed reasonably to protect the revenues of the Commonwealth.

13 (b) Distributors or retailers of malt beverages, who purchase malt beverages
 14 directly from a brewer, shall pay and report the tax levied by KRS 243.720(3)
 15 on or before the twentieth day of the calendar month next succeeding the
 16 month in which the brewer sells, transfers, or passes title of the malt beverage
 17 to the distributor or retailer, in accordance with rules and regulations of the
 18 Department of Revenue designed reasonably to protect the revenues of the
 19 Commonwealth. The credit allowed brewers in this state, under the provisions
 20 of KRS 243.720(3)(b), shall flow through to the distributor or retailer who
 21 purchases malt beverages directly from the brewer. If a brewer sells, transfers,
 22 or passes title to malt beverages to any of its employees for home
 23 consumption or to any charitable or fraternal organization pursuant to the
 24 provisions of KRS 243.150, the brewer shall be responsible for paying and
 25 reporting the tax levied by KRS 243.720(3) in accordance with the provisions
 26 of subsection (c) of this section.

27 (c) Every brewer selling, transferring, or passing title to malt beverages to any

1 person in this state other than a distributor or retailer, and every other person
2 selling, transferring, or passing title of distilled spirits, wine, or malt
3 beverages to distributors, retailers, or consumers shall report and pay the tax
4 levied by KRS 243.720(1), (2), or (3) on or before the twentieth day of the
5 calendar month next succeeding the month in which possession or title of
6 distilled spirits, wine, or malt beverages is transferred to a distributor, retailer,
7 or consumer in this state, in accordance with rules and regulations of the
8 Department of Revenue designed reasonably to protect the revenues of the
9 Commonwealth.

10 (d) Every distributor, retailer, or consumer possessing, using, selling, or
11 distributing distilled spirits, wine, or malt beverages in this state upon which
12 the tax levied by KRS 243.720(1), (2), or (3) and KRS 243.884 has not been
13 paid shall be jointly and severally liable for reporting and paying the tax due,
14 in accordance with rules and regulations of the Department of Revenue
15 designed reasonably to protect the revenues of the Commonwealth. Such
16 liability shall not be extinguished until the tax has been paid to the
17 Department of Revenue.

18 (e) Notwithstanding the provisions of subsection 1(a) of this section, every owner
19 of a small farm winery shall pay and report the tax levied by KRS 243.720 (1)
20 and (2) on a quarterly basis, in accordance with administrative regulations of
21 the Department of Revenue designed reasonably to protect the revenues of the
22 Commonwealth.

23 (2) Every wholesaler of distilled spirits or wine before using, selling, or distributing by
24 sale or gift distilled spirits and wine shall qualify with the Department of Revenue.
25 In order to so qualify, each wholesaler shall furnish to the Department of Revenue a
26 certified copy of the bond required to be filed with the Office of Alcoholic Beverage
27 Control under the provisions of KRS 243.400(2).

1 (3) Notwithstanding the provisions of KRS 243.400(1), every brewer before selling or
2 distributing by sale or gift malt beverages, or before importing malt beverages into
3 the state, shall qualify with the Department of Revenue in such manner as the
4 department may require.

5 (4) The department shall have the power to require a bond from any other person liable
6 for Kentucky distilled spirits, wine, or malt beverage taxes provided such person is
7 not otherwise required to post a bond under the provisions of this section. The
8 amount of the bond for persons liable for Kentucky distilled spirits or wine taxes
9 shall be computed as provided in KRS 243.400(2). The amount of the bond for
10 persons liable for Kentucky malt beverage taxes shall be in the minimum amount of
11 one thousand dollars (\$1,000) or an amount equal to three (3) times the person's
12 average monthly Kentucky malt beverage tax liability, whichever is greater. The
13 bond shall be on a form prescribed by the department and have corporate surety
14 registered by the Office of Insurance. The person liable for the tax shall be the
15 principal obligor and the state the obligee. The bond shall be conditioned upon the
16 prompt payment by the person to the Department of Revenue of all malt beverage
17 taxes due, with penalties and interest.

18 Section 11. KRS 243.884 is amended to read as follows:

19 (1) For the privilege of making "wholesale sales" or "sales at wholesale" of beer, wine,
20 or distilled spirits, a tax is hereby imposed upon all wholesalers of wine and
21 distilled spirits at the rate of eleven percent (11%) and upon all distributors of beer
22 at the rate of eleven percent (11%) of the gross receipts of any such wholesaler or
23 distributor derived from "sales at wholesale" or "wholesale sales" made within the
24 Commonwealth except as provided in subsection (2) of this section. Wholesalers of
25 distilled spirits and wine and distributors of malt beverages shall pay and report the
26 tax levied by this section on or before the 20th day of the calendar month next
27 succeeding the month in which possession or title of the distilled spirits, wine or

1 malt beverages is transferred from the wholesaler or distributor to retailers or
 2 consumers in this state, in accordance with rules and regulations of the Department
 3 of Revenue designed reasonably to protect the revenues of the Commonwealth.

4 (2) Gross receipts from sales at wholesale or wholesale sales shall not include the
 5 following sales:

6 (a) Sales made between wholesalers or between distributors; and

7 (b) Sales made by a small farm winery~~[or farm winery]~~ or wholesaler of wine
 8 produced by a small farm winery~~[or farm winery, if the grapes, grape juice,~~
 9 ~~other fruits, other fruit juices, or honey from which the wine is made are~~
 10 ~~produced in Kentucky;~~

11 ~~(c) Until June 30, 2004, sales from a small winery or wholesaler of wine~~
 12 ~~produced by a small winery, if the grapes, grape juice, other fruits, other fruit~~
 13 ~~juices, or honey from which the wine is made are not produced in Kentucky].~~

14 Section 12. KRS 244.050 is amended to read as follows:

15 (1) No retail licensee shall give away any alcoholic beverage in any quantity, or deliver
 16 it in any quantity for less than a full monetary consideration, except as provided by
 17 KRS 243.155,~~[243.156,]~~ 243.157, and subsection (2) of this section.

18 (2) A retailer licensed to sell distilled spirits and wine under KRS 243.030(7), (8), or
 19 ~~(26) [(27)]~~ may, after acquiring a license under KRS 243.030(39)~~[243.030(40)]~~,
 20 allow customers to sample distilled spirits and wine under the following conditions:

21 (a) Sampling shall be permitted only on licensed premises and, for licensees
 22 licensed under KRS 243.030(7), (8), or ~~(26) [(27)]~~, during regular business
 23 hours;

24 (b) A licensee shall not charge for the samples provided to customers;

25 (c) Sample sizes shall not exceed:

- 26 1. One (1) ounce for wine; and
- 27 2. One-half (1/2) ounce for distilled spirits; and

- 1 (d) A licensee shall limit a customer to:
 - 2 1. Two (2) distilled spirits samples per day; and
 - 3 2. Six (6) wine samples per day.
- 4 (3) Retailers licensed under KRS 243.030(7) or (8) shall:
 - 5 (a) Notify the Office of Alcoholic Beverage Control at least seven (7) days in
 - 6 advance of conducting a sampling event; and
 - 7 (b) Limit a sampling event to a period not to exceed four (4) consecutive hours
 - 8 between 12 noon and 8 p.m.

9 Section 13. KRS 100.111 is amended to read as follows:

10 As used in this chapter, unless the context otherwise requires:

- 11 (1) "Administrative official" means any department, employee, or advisory, elected, or
- 12 appointed body which is authorized to administer any provision of the zoning
- 13 regulation, subdivision regulations, and, if delegated, any provision of any housing
- 14 or building regulation or any other land use control regulation;
- 15 (2) "Agricultural use" means the use of:
 - 16 (a) A tract of at least five (5) contiguous acres for the production of agricultural
 - 17 or horticultural crops, including but not limited to livestock, livestock
 - 18 products, poultry, poultry products, grain, hay, pastures, soybeans, tobacco,
 - 19 timber, orchard fruits, vegetables, flowers, or ornamental plants, including
 - 20 provision for dwellings for persons and their families who are engaged in the
 - 21 agricultural use on the tract, but not including residential building
 - 22 development for sale or lease to the public;
 - 23 (b) Regardless of the size of the tract of land used, small farm wineries licensed
 - 24 under KRS 243.155[, and farm wineries licensed under the provisions of KRS
 - 25 243.156];
 - 26 (c) A tract of at least five (5) contiguous acres used for the following activities
 - 27 involving horses:

1. Riding lessons;
2. Rides;
3. Training;
4. Projects for educational purposes;
5. Boarding and related care; or
6. Shows, competitions, sporting events, and similar activities that are associated with youth and amateur programs, none of which are regulated by KRS Chapter 230, involving seventy (70) or less participants. Shows, competitions, sporting events, and similar activities that are associated with youth and amateur programs, none of which are regulated by KRS Chapter 230, involving more than seventy (70) participants shall be subject to local applicable zoning regulations; or

(d) A tract of land used for the following activities involving horses:

1. Riding lessons;
2. Rides;
3. Training;
4. Projects for educational purposes;
5. Boarding and related care; or
6. Shows, competitions, sporting events, and similar activities that are associated with youth and amateur programs, none of which are regulated by KRS Chapter 230, involving seventy (70) or less participants. Shows, competitions, sporting events, and similar activities that are associated with youth and amateur programs, none of which are regulated by KRS Chapter 230, involving more than seventy (70) participants shall be subject to local applicable zoning regulations.

This paragraph shall only apply to acreage that was being used for these activities before July 13, 2004;

- 1 (3) "Board" means the board of adjustment unless the context indicates otherwise;
- 2 (4) "Citizen member" means any member of the planning commission or board of
3 adjustment who is not an elected or appointed official or employee of the city,
4 county, or consolidated local government;
- 5 (5) "Commission" means planning commission;
- 6 (6) "Conditional use" means a use which is essential to or would promote the public
7 health, safety, or welfare in one (1) or more zones, but which would impair the
8 integrity and character of the zone in which it is located, or in adjoining zones,
9 unless restrictions on location, size, extent, and character of performance are
10 imposed in addition to those imposed in the zoning regulation;
- 11 (7) "Conditional use permit" means legal authorization to undertake a conditional use,
12 issued by the administrative official pursuant to authorization by the board of
13 adjustment, consisting of two (2) parts:
- 14 (a) A statement of the factual determination by the board of adjustment which
15 justifies the issuance of the permit; and
- 16 (b) A statement of the specific conditions which must be met in order for the use
17 to be permitted;
- 18 (8) "Development plan" means written and graphic material for the provision of a
19 development, including any or all of the following: location and bulk of buildings
20 and other structures, intensity of use, density of development, streets, ways, parking
21 facilities, signs, drainage of surface water, access points, a plan for screening or
22 buffering, utilities, existing manmade and natural conditions, and all other
23 conditions agreed to by the applicant;
- 24 (9) "Fiscal court" means the chief body of the county with legislative power, whether it
25 is the fiscal court, county commissioners, or otherwise;
- 26 (10) "Housing or building regulation" means the Kentucky Building Code, the Kentucky
27 Plumbing Code, and any other building or structural code promulgated by the

- 1 Commonwealth or by its political subdivisions;
- 2 (11) "Legislative body" means the chief body of the city or consolidated local
3 government with legislative power, whether it is the board of aldermen, the general
4 council, the common council, the city council, the board of commissioners, or
5 otherwise; at times it also implies the county's fiscal court;
- 6 (12) "Mayor" means the chief elected official of the city or consolidated local
7 government whether the official designation of his office is mayor or otherwise;
- 8 (13) "Nonconforming use or structure" means an activity or a building, sign, structure, or
9 a portion thereof which lawfully existed before the adoption or amendment of the
10 zoning regulation, but which does not conform to all of the regulations contained in
11 the zoning regulation which pertain to the zone in which it is located;
- 12 (14) "Planning operations" means the formulating of plans for the physical development
13 and social and economic well-being of a planning unit, and the formulating of
14 proposals for means of implementing the plans;
- 15 (15) "Planning unit" means any city, county, or consolidated local government, or any
16 combination of cities, counties, or parts of counties, or parts of consolidated local
17 governments engaged in planning operations;
- 18 (16) "Plat" means the map of a subdivision;
- 19 (17) "Political subdivision" means any city, county, or consolidated local government;
- 20 (18) "Several" means two (2) or more;
- 21 (19) "Public facility" means any use of land whether publicly or privately owned for
22 transportation, utilities, or communications, or for the benefit of the general public,
23 including but not limited to libraries, streets, schools, fire or police stations, county
24 buildings, municipal buildings, recreational centers including parks, and cemeteries;
- 25 (20) "Street" means any vehicular way;
- 26 (21) "Structure" means anything constructed or made, the use of which requires
27 permanent location in or on the ground or attachment to something having a

- 1 permanent location in or on the ground, including buildings and signs;
- 2 (22) "Subdivision" means the division of a parcel of land into three (3) or more lots or
- 3 parcels except in a county containing a city of the first, second, or third class or in
- 4 an urban-county government or consolidated local government where a subdivision
- 5 means the division of a parcel of land into two (2) or more lots or parcels; for the
- 6 purpose, whether immediate or future, of sale, lease, or building development, or if
- 7 a new street is involved, any division of a parcel of land; provided that a division of
- 8 land for agricultural use and not involving a new street shall not be deemed a
- 9 subdivision. The term includes resubdivision and when appropriate to the context,
- 10 shall relate to the process of subdivision or to the land subdivided; any division or
- 11 redivision of land into parcels of less than one (1) acre occurring within twelve (12)
- 12 months following a division of the same land shall be deemed a subdivision within
- 13 the meaning of this section;
- 14 (23) "Unit" means planning unit; and
- 15 (24) "Variance" means a departure from dimensional terms of the zoning regulation
- 16 pertaining to the height, width, length, or location of structures, and the size of
- 17 yards and open spaces where such departure meets the requirements of KRS
- 18 100.241 to 100.247.

19 SECTION 14. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO

20 READ AS FOLLOWS:

21 *No wine sold in Kentucky shall contain on its label or elsewhere on the wine's retail*

22 *container or package the word "Kentucky" or any other word or phrase implying that*

23 *the origin of the wine is Kentucky, except in the name and address of the winery as*

24 *required by federal laws or regulations unless seventy-five percent (75%) of all grapes,*

25 *grape juice, other fruits, other fruit juices, and honey used in making the wine were*

26 *produced in the Commonwealth of Kentucky.*

27 SECTION 15. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO

1 READ AS FOLLOWS:

2 (1) A small farm winery wholesaler's license shall authorize the licensee:

3 (a) To purchase, receive, store, or possess wine produced by small farm winery
4 licensees;

5 (b) To sell the wine at wholesale from the licensed premises only; and

6 (c) To transport from the licensed premises for himself or herself only any wine
7 produced by small farm winery licensees that the small farm winery
8 wholesaler's license authorizes him or her to sell.

9 (2) A small farm winery wholesaler licensed under this section shall:

10 (a) Transport the wine in the manner provided for manufacturers in KRS
11 243.120; and

12 (b) Transport the wine from a small farm winery's licensed premises or another
13 wholesaler's premises to the small farm winery wholesaler's premises.

14 (3) A small farm winery wholesaler licensed under this section shall not purchase,
15 receive, store, possess, sell, or transport wine or distilled spirits, except as
16 provided in this section, and shall comply with all provisions of the Kentucky
17 Revised Statutes applicable to wholesalers licensed under KRS 243.030(6), to the
18 extent the provisions are not inconsistent with this section.

19 (4) A small farm winery wholesaler licensed under this section shall be allowed to
20 have its licensed premises on or in the licensed premises of a small farm winery.

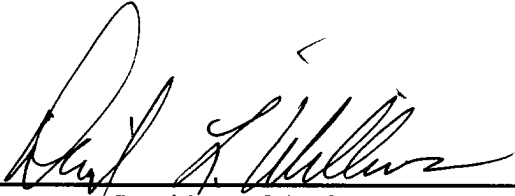
21 Section 16. The following KRS section is repealed:

22 243.156 Business authorized by farm winery license -- Off-premise retail sales outlet in
23 wet territory -- Use of Kentucky products -- Other permitted licenses.

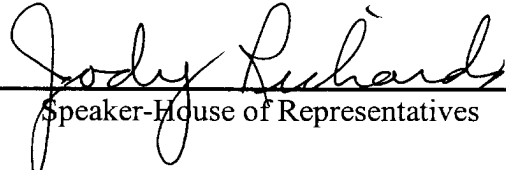
24 Section 17. So as to prevent a gap in sale of small farm wines to retail package or
25 retail drink license holders, if the small farm winery wholesaler's license as provided
26 under subsection (43) of Section 7 of this Act is not available on the effective date of this
27 Act, small farm wineries shall be authorized to sell and transport wine produced on the

1 premises to retail package or retail drink license holders, if the wine has been offered for
2 sale to wholesale license holders and the wine is sold at the wholesale price to the retail
3 package or retail drink license holders. Small farm wineries shall be authorized to make
4 sales under this provision until the small farm winery wholesaler's license becomes
5 available.

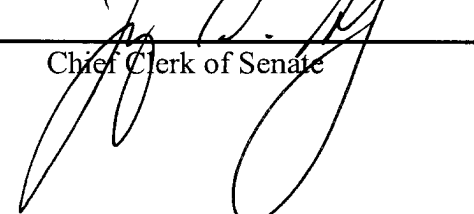
6 Section 18. The provisions of this Act take effect January 1, 2007.



President of the Senate



Speaker-House of Representatives

Attest: 

Chief Clerk of Senate

Approved 

Governor

Date 4/18/06